



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/151498

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on September 18, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On April 16, 2013, Petitioner completed an on-line ACCESS application. In that application, Petitioner indicated that her home was located at [REDACTED] (Exhibit 3, pgs. 13-29)
3. On April 24, 2013, the agency sent Petitioner a notice indicating that as of June 1, 2013, she would need to pay a monthly premium of \$55.00 in order for her child to receive health care benefits. The notice was sent to Petitioner at the [REDACTED] address. (Exhibit 3, pgs. 40-45)

4. On June 18, 2013, the agency sent Petitioner a notice indicating that the child's healthcare benefits would be ending effective July 1, 2013, because Petitioner did not pay the premium, and that in order to continue receiving benefits, she would need to pay the premium by the end of July. This notice was sent to Petitioner at the [REDACTED] address. (Exhibit 3, pgs. 46-49)
5. The agency received no returned mail. (Testimony of Ms. Thao-Xiong)
6. Petitioner moved sometime at the end of April to an address on [REDACTED], but she did not inform the agency of her move. (Testimony of Petitioner; Exhibit 3, pg. 11)
7. Petitioner did not pay the required premium. (Testimony of Petitioner)
8. Petitioner filed a request for fair hearing that was received on August 21, 2013.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning medical assistance must be filed within 45 days of the date of the action. Wisconsin Stat. §49.45(5); Income Maintenance Manual § 3.3.2. A negative action can be the denial of an application, the reduction of benefits or, as in this case, the termination of an ongoing case. The petitioner's appeal was filed 51 days after the date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

Petitioner asserts that she did not get the notice terminating healthcare benefits because she moved. However, Petitioner did not inform the agency of her change in address. She was clearly aware of the need to advise the agency of a change of address, because she did so back in November 2012. (See Exhibit 3, pg. 11) As such, the agency correctly sent the notice to Petitioner at her last known address.

Even if Petitioner's appeal were timely, the agency correctly terminated her case, because the agency sent the premium notice to Petitioner's last known address and she did not pay the required premium. Moving without telling the agency is not among the good cause reasons allowed for non-payment of premiums under section 19.8.3 of the BadgerCare+ Eligibility Handbook.

CONCLUSIONS OF LAW

There is no jurisdiction as the appeal is untimely.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

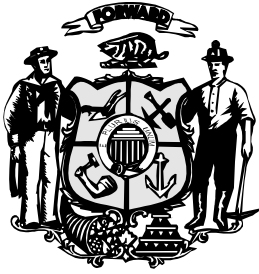
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of October, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 16, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability